



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-284739

March 8, 2000

The Honorable Robert C. Smith
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Bud Shuster
Chairman
The Honorable James L. Oberstar
Ranking Minority Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: Federal Emergency Management Agency: Hurricane Floyd Property
Acquisition and Relocation Grants

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Emergency Management Agency (FEMA), entitled "Hurricane Floyd Property Acquisition and Relocation Grants" (RIN: 3067-AD06). We received the rule on February 23, 2000. It was published in the Federal Register as an interim final rule with request for comments on February 11, 2000. 65 Fed. Reg. 7270.

The interim final rule provides guidance on the administration of grants of \$215 million for the acquisition and relocation of properties affected by Hurricane Floyd and surrounding events for hazard mitigation purposes.

Enclosed is our assessment of FEMA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that FEMA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Stan Czerwinski, Associate Director for Housing and Community Development Issues. Mr. Czerwinski can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Ernest B. Abbott
General Counsel, Federal
Emergency Management Agency

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL EMERGENCY MANAGEMENT AGENCY
ENTITLED
"HURRICANE FLOYD PROPERTY ACQUISITION
AND RELOCATION GRANTS"
(RIN: 3067-AD06)

(i) Cost-benefit analysis

Since the interim final rule is an administrative action in support of normal day-to-day grant activities required by Public Law 106-113, which prescribes how the \$215 million appropriation will be transferred through grants to certain states, a formal cost-benefit analysis was not performed.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Director of FEMA has certified that the interim final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The interim final rule does not impose a federal mandate on either state, local, or tribal governments or the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

Because of the emergency nature of the flood relief grants, the rule was issued as an interim final rule with a request for comments, rather than a Notice of Proposed Rulemaking. The Director found "good cause" to waive the notice and comment procedures under 5 U.S.C. 553 (b)(B). However, FEMA is accepting comments until April 11, 2000.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The interim final rule contains a new information collection that is subject to review by the Office of Management and Budget (OMB). FEMA has submitted an emergency request for approval by OMB for use through July 2000 and FEMA will submit a request for a 3-year approval under OMB's normal clearance procedures.

The preamble to the interim final rule contains the information required by the Act, including the annual burden hours, which are estimated at 48,789 hours.

Statutory authorization for the rule

The final rule implements the administration of grants made under title I, chapter 2 of the Consolidated Appropriations Act for FY 2000, Public Law 106-113.

Executive Order No. 12866

The interim final rule was determined to be an “economically significant” regulatory action under the Order and was reviewed and approved by the Office of Management and Budget.

Executive Order No. 12612 (Federalism)

FEMA has determined that the interim final rule does not significantly affect the rights, roles, and responsibilities of states. It involves no preemption of state law nor does it limit state policymaking discretion.